

IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

BIBLOMODEL, S.A. DE C.V.

Plaintiff,

v.

LIFTSYSTEME GES.M.B.H.

Defendant.

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Civil Action No. 4:08-cv-02647

**PLAINTIFF BIBLOMODEL, S.A. DE C.V.'S MOTION**  
**FOR ISSUANCE OF A LETTERS ROGATORY**

Plaintiff Biblodel, S.A. DE C.V. ("Biblodel" or "Plaintiff") moves for the issuance of a Letters Rogatory pursuant to Rule 4(f)(2)(A) & (B) of the Federal Rules of Civil Procedure:

On August 29, 2008, Biblodel filed this lawsuit against Defendant Liftsysteme GES.M.B.H. ("Lift") for business disparagement, declaratory judgment, and for violations of the Lanham Trade-Mark Act. Lift is an Austrian limited liability company with its headquarters maintained in Vienna, Austria. Upon information and belief, Lift does not maintain an agent in the United States to accept service of process. Therefore, Biblodel must effect service of process on Lift in Austria.

Austria is not a signatory of the Hague Service Convention, and thus, Biblodel must abide by Austrian law to effect service of process on Lift. Austrian law has strict requirements regarding service of process on its residents, including Austrian entities, by foreign plaintiffs. The formal method in Austria is a Letters Rogatory, a request from a court in the United States to a court in a foreign country requesting international judicial assistance related to service of process. A copy of Biblodel's Proposed Letters Rogatory is attached hereto as Exhibit "A".

Letters Rogatory service is used in Austria because Austria generally prohibits, by law, any attempt at service of process by any other method unless an international agreement governs the relationship of the respective parties. *See Austrian Law on the Service of Legal Documents (Zustellgesetz)*, Austrian Federal Law Gazette, BGBl No. 200/182; *see also* Note Verbale from the Austrian Federal Ministry for Foreign Affairs to the United States Embassy, attached hereto as Exhibit "B".<sup>1</sup>

Biblomodel moves for rendition of the attached proposal.

Dated: December 29, 2008

Respectfully submitted,

By: /s/ John M. Mings  
John M. Mings  
Federal I.D. No. 12374  
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Facsimile: 713.751.1717

ATTORNEY FOR PLAINTIFF,  
BIBLOMODEL, S.A. DE C.V.

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<sup>1</sup> As described in the attached Note Verbale, a certified translation of the documents to German is required in executing the service of a Letters Rogatory. Biblomodel is in the process of arranging for such a certified translation and will carry out the same should the Court grant its request for the issuance of a Letters Rogatory.

**CERTIFICATE OF SERVICE**

I hereby certify that any counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule on this the 29th day of December 2008. The undersigned is aware of no counsel for Defendant, of record or otherwise. Defendant is being provided notice of this filing via email.

/s/ John M. Mings

John M. Mings